



Voting: A Civil Rights Issue?

In 2013, the **U.S. Supreme Court** ruling on *Shelby County v. Eric Holder* struck down a long-standing measure meant to protect all voters' access to the polls. The court ruled unconstitutional the section of the **1965 Voting Rights Act** that gave the federal government the responsibility to monitor voting procedures in particular states and counties that had a history of discriminatory treatment toward non-white voters. In making its decision, the court's majority opinion pointed to near equal levels of white and black voter registration in these monitored jurisdictions, while the dissent opinion cited the importance of earlier intervention by the **U.S. Department of Justice** to achieve this equality. The dissent also considered the troubling gap between white and non-white registered voters in other parts of the country as evidence of the need for continued monitoring.

Numerous states across the country have enacted more restrictive voting requirements in the wake of the Supreme Court's ruling. While these new voting laws do not explicitly discriminate based on race, opponents of such requirements argue that they effectively limit the number of poor and non-white voters by requiring photo IDs and other documentation that can be expensive and time-consuming to obtain, or by making it more difficult to cast a vote for those with limited mobility or inflexible work schedules. Advocates of these requirements, on the other hand, argue that the new voting requirements reduce voter fraud. Because Democrats have a larger base of non-white and poor voters,

this party stands opposed to voting restrictions that generally come from Republican-led legislatures.

Following the Supreme Court's ruling, **North Carolina**, a state that had been monitored under the Voting Rights Act, immediately put into effect restrictive voting measures. The new voting laws require photo IDs, eliminate same-day voting, reduce the number of days for early voting, and prohibit "out of precinct" voting. The U.S. Department of Justice sued the state and the case is now being heard in federal court. The Department of Justice is arguing that these new measures are discriminatory in intent (The 2014 state elections did indeed see lower black voter turnout). The state of North Carolina argues that the laws are not discriminatory because they apply equally to all citizens.



Supreme Court Building, Washington, D.C.

The outcome of this case will certainly influence other states' voting regulations. Meanwhile, many states have put in place measures to increase access to voting (such as automatic voter registration for all people with a driver's license, and online voting registration). The **2016 Election** will be the first Presidential Election since the Supreme Court's ruling, and voter data will give insight into what effect these new laws have on who votes, and who is elected to office.

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Why was a Voting Rights Act Necessary?

Background

The **15th Amendment**, which was **ratified** in 1870, protects citizens' right to vote, regardless of race or color. Despite this amendment, southern states found ways to evade the law by instituting **illegal voting requirements** to keep African-Americans from voting. These states had a large proportion of African-Americans, who, if registered to vote, would be able to significantly influence election outcomes. During the **Civil Rights Movement** of the 1950s and 1960s, activists challenged discriminatory voting requirements in order to register more African-American voters, and, ultimately, elect more African-American legislators. Though violence and punishment greeted many African-Americans trying to vote in the South, Civil Rights activists eventually succeeded in convincing Congress and **President Lyndon Johnson** to pass the Voting Rights Act of 1965.



Civil Rights Leader Roy Wilkins and President Lyndon B. Johnson in the Oval Office on August 3, 1965

The Voting Rights Act fulfilled the aim of the 15th Amendment by requiring fair access to the

ballot for all Americans. The Act also put the federal government in charge of evaluating any election changes for their impact on minority voters in the states and counties that had a history of denying the vote to African-Americans. The number of registered African-American voters increased dramatically, and, as a result, the number of non-white elected officials went from under 1,000 in 1965 to more than 17,000 in 2015.

Meanwhile, politicians looking to limit the impact of the minority vote have in some places redrawn legislative districts to segregate the vote or adopted at-large voting that allows a city's majority population to control the election of all city council members. These "second-generation" barriers to voting also decrease the potency of the minority vote, and are an important reason why Congress has continued to uphold the Voting Rights Act (reauthorizing it in 2006).

Important Terms

Key Terms

precinct	a district within a town or city with its own polling place
ratified	approved by the states in order to become an amendment to the Constitution
federalism	a system of government with power divided between central government and states
sovereignty	autonomy, authority of the state
jurisdiction	area under legal authority

Shelby County v. Eric Holder

Primary Source

Excerpts from the U.S. Supreme Court case - *Shelby County, Alabama v. Holder, Attorney General*, decided June 25, 2013

Majority Opinion (excerpted):



John G. Roberts, Jr.
Chief Justice of the
United States Supreme Court

The Voting Rights Act of 1965 employed extraordinary measures to address an extraordinary problem. Section (§) 5 of the Act required States to obtain federal permission before enacting any law related to voting — a drastic departure from basic principles of **federalism**. Section

4 of the Act applied that requirement only to some States — an equally dramatic departure from the principle that all States enjoy equal **sovereignty**. This was strong medicine, but Congress determined it was needed to address entrenched racial discrimination in voting... There is no denying, however, that the conditions that originally justified these measures no longer characterize voting in the covered **jurisdictions**... At the same time, voting discrimination still exists; no one doubts that. The question is whether the Act's extraordinary measures, including its disparate [different] treatment of the States, continue to satisfy constitutional requirements... As we put it a short time ago, “the Act imposes current burdens and must be justified by current needs.” *Northwest Austin*, 557 U. S., at 203 ... The formula in that section (§4(b)) can no longer be used as a basis for subjecting jurisdictions to preclearance.

Dissent (excerpted):

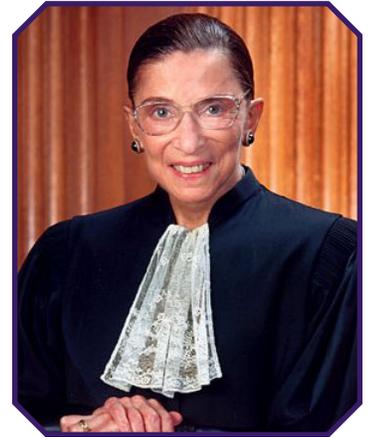
“[V]oting discrimination still exists; no one doubts that.” *Ante*, at 2, but the Court today terminates the remedy that proved to be best suited to block that discrimination.

The stated purpose of the **Civil War Amendments** was to arm Congress with the power and authority to protect

all persons within the Nation from violations of their rights by the States. In exercising that power, then, Congress may use “all means which are appropriate, which are plainly adapted” to the constitutional ends declared by these Amendments. *McCulloch*, 4 *Wheat.*, at 421. So when Congress acts to enforce the right to vote free from racial discrimination, we ask not whether Congress has chosen the means most wise, but whether Congress has rationally selected means appropriate to a legitimate end.

(An example from the dissent of the effectiveness of Section 5 of the Voting Rights Act):

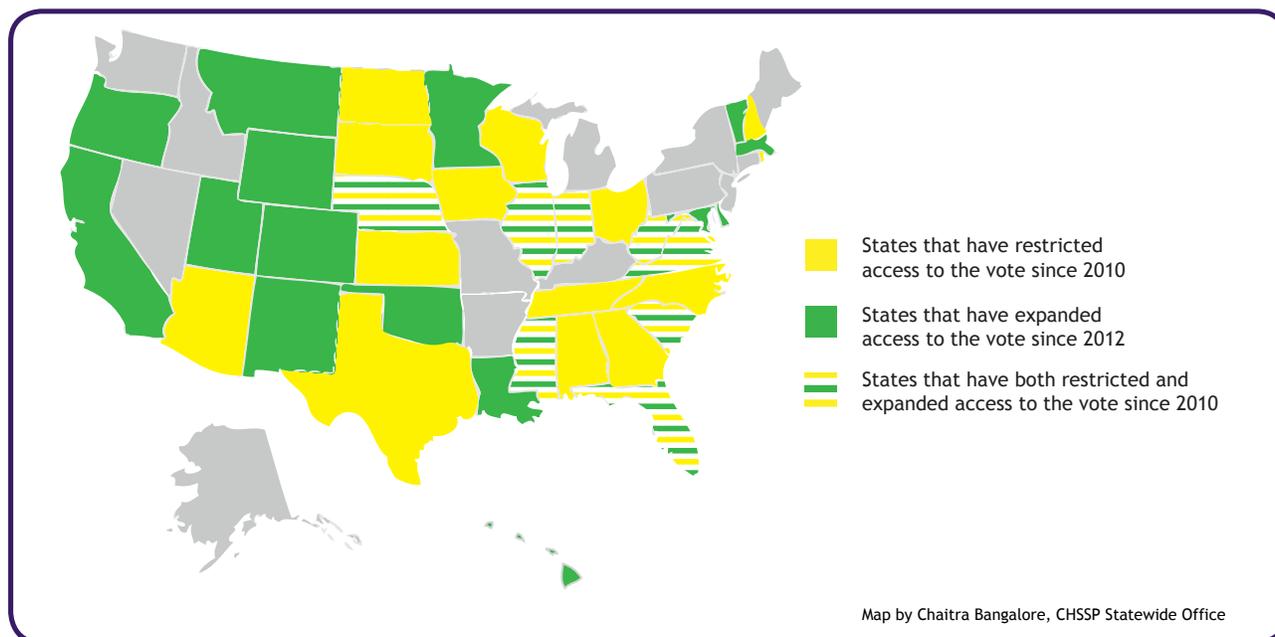
In 2001, the mayor and all-white five-member Board of Aldermen of Kilmichael, Mississippi abruptly canceled the town's election after “an unprecedented number” of African-American candidates announced they were running for office. The Department of Justice required an election, and the town elected its first black mayor and three black aldermen [town councilmen].



Ruth Bader Ginsburg
Associate Justice of the
United States Supreme Court

Changes in Voting Law by State

Graphic



Investigate state legislation to restrict and increase access to the vote through interactive maps at: <https://www.brennancenter.org/analysis/voting-laws-roundup-2015>

How is Voting a Civil Rights Issue?

Student Investigation

Research how you would register to vote (if you were 18) in your particular town.

- What do you need to do ahead of Election Day in order to qualify?
- Where do you go on Election Day itself?
- What are the hours of your **precinct**'s voting place, and can you vote outside of your **precinct**?
- Can you submit an early ballot, and if so, how early?

After researching these logistics, reflect on the system - would this be a challenge to complete for some residents, and why?

Finally, write a short response answering the question: How is voting a civil rights issue?

Links

Front Page

U.S. Supreme Court
www.supremecourt.gov/

Shelby County v. Eric Holder Opinion and Dissent
<https://www.law.cornell.edu/supct/pdf/12-96.pdf>

1965 Voting Rights Act
http://www.ourdocuments.gov/doc_large_image.php?doc=100

U.S. Department of Justice
www.justice.gov/

North Carolina State Board of Elections
<https://www.ncsbe.gov/ncsbe/registering-to-vote>

2016 Election Central
<http://www.uspresidentialelectionnews.com/>

Background

15th Amendment
<http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=015/llsl015.db&recNum=379>

Illegal Voting Requirements Sample
http://www.pbs.org/wnet/jimcrow/voting_literacy.html

Civil Rights Movement
<http://www.history.com/topics/black-history/civil-rights-movement>

President Lyndon Johnson
<https://www.whitehouse.gov/1600/presidents/lyndonbjohnson>

Primary Source

Shelby County v. Eric Holder Opinion
<https://www.law.cornell.edu/supct/pdf/12-96.pdf>

Shelby County v. Eric Holder Dissent
<https://www.law.cornell.edu/supct/pdf/12-96.pdf>

Civil War Amendments
<http://www.senate.gov/artandhistory/history/common/generic/CivilWarAmendments.htm>

Map

Interactive map
<https://www.brennancenter.org/analysis/voting-laws-roundup-2015>

Student Investigation

How to vote
<https://www.usa.gov/register-to-vote>

Additional Resources

Fact Check
<http://www.factcheck.org/tag/presidential-election-2016/>

Rock the Vote
<http://www.rockthevote.com/>

Teaching Notes

About *Teach the Election*

As the title suggests, this inaugural issue of the *Teach the Election* series examines the debate over the right to vote and, in particular, its role as an unresolved civil rights issue. This collection of both original content and primary sources is designed to support classroom instruction on the 2016 Election, as well as issues of citizenship that exist outside of any particular election cycle. Teachers may want to use the student background, voting requirements map, and excerpts from the Supreme Court decision to inform ongoing classroom discussions, introduce the concept of voting rights, explore the role of the federal government in local elections, and /or consider the implications of these laws on the future outcome of the 2016 Election.

About this issue

Depending upon student age and background knowledge, teachers may want to begin their students' consideration of this issue by asking them to share what they know or have heard, if anything, about the Voting Rights Act (VRA) in pairs or triads. After surveying the class' response to this question, teachers may want to then distribute the student background on the VRA, having students read independently at first, and then engaging in a variety of close reading strategies to ensure student comprehension. After working through each of the other articles in the issue, teachers may want to connect the topic to ongoing discussions of American citizenship, liberty, and equality, by asking students to take a stand, either in writing or orally, on the issue's organizing question:
Is Voting a Civil Rights Issue?

Photo Credits

“Supreme Court Building, Washington, D. C.”,
Digital file from original. Image from the Library of
Congress: <http://www.loc.gov/resource/highsm.13879/>

“L-R: Roy Wilkins, President Lyndon B. Johnson”
Image from the LBJ Library: <http://www.lbjlibrary.net/collections/photo-archive.html> Reference number A992-31

“CJ John Roberts”
Image from The American Bar Association: <http://www.americanbar.org/content/dam/aba/images/migrated/scfedjud/images/SCHSroberts.jpg>

“CJ Ruth Bader Ginsberg”
Image from the Library of Congress: <http://www.loc.gov/rr/women/ginsburg.html>

About

About *Teach the Election*

Teach the Election puts the 2016 Election in its historical context with classroom-ready explanations of the electoral process, relevant issues, and suggestions to incorporate the election cycle into the regular curriculum. *Teach the Election* also helps students engage with informational text and primary sources to help them make the evidence-based arguments required by California’s Standards.

Teach the Election is a publication of the [California History-Social Science Project](#), a statewide network, headquartered at the University of California, Davis, and dedicated to improving student literacy and learning. Copyright © 2015, Regents of the University of California, Davis campus. All rights reserved.

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